

रजिस्ट्री सं. डी.एल.-33004 / 2000

REGISTERED NO. DL-33004/2000



भारत का राजपत्र The Gazette of India.

असाधारण
EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY



सं. 28]

नई दिल्ली, शुक्रवार, फरवरी 25, 2000/ फाल्गुन 6, 1921

No. 28]

NEW DELHI, FRIDAY, FEBRUARY 25, 2000 / Phalguna 6, 1921

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 25.2.2000.

BILL NO. 79 OF 1999

A Bill to amend the Prevention of Insults to National Honour Act, 1971.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. This Act may be called the Prevention of Insults to National Honour (Amendment) Act, 1999. Short title.

69 of 1971

2. In section 3 of the Prevention of Insults to National Honour Act, 1971, after the words "the Indian National Anthem", the words "and the National Song of India" shall be inserted. Amendment of section 3.

STATEMENT OF OBJECTS AND REASONS

The Prevention of Insults to National Honour Act, 1971 provides for punishment to any person who intentionally prevents the singing of the Indian National Anthem or causes disturbance to any assembly engaged in such singing.

The framers of the Constitution recognised "*Vande Mataram*" as the National Song of India and gave it a status equal to the National Anthem "*Jana Gana Mana*". In this context Dr. Rajendra Prasad, President of the Constituent Assembly of India made the following statement in the Assembly on the 24th January, 1950.

"The composition consisting of the words and music known as the *Jana Gana Mana* is the National Anthem of India, subject to such alterations in the words as the Government may authorise as occasion arises; and the song *Vande Mataram*, which has played a historic part in the struggle for Indian freedom, shall be honoured equally with *Jana Gana Mana* and shall have equal status with it. I hope this will satisfy the Members."

In Parliament, the National Anthem is played at the commencement and the National Song is played on the concluding day of each session of the Parliament. Several State Legislatures also do so.

It is, therefore, appropriate that intentional prevention of the singing of the National Song *Vande Mataram* or causing disturbance to any assembly engaged in such singing is also made a punishable offence under the Prevention of Insults to National Honour Act, 1971.

The Bill seeks to achieve the above objective.

NEW DELHI;
October 25, 1999.

KIRIT SOMAIYA

BILL NO. 89 OF 1999

A Bill further to amend the Constitution (Scheduled Tribes) Order, 1950.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Act, 1999. Short title.

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in Part XVI- Amendment of
the Schedule.
West Bengal, after entry 38, the following entries shall be added, namely:—

“39. Deswalli Majhees”.

“40. Kurmis.”.

STATEMENT OF OBJECTS AND REASONS

The tribe “Deswalli Majhees” are Santhal descendants and were declared as “Tribe” in the year 1941. The tribe “Deswalli Majhees” used to get benefits and legitimate dues guaranteed by the Government of India. Since 1961, the tribe “Deswalli Majhees” have been deprived of benefits meant for them and they have been suffering in many ways.

The tribe Kurmi are still observing and practising their age old traditional customs and preserving their tribal identity. Although, their history is unwritten yet their pristine culture and tribal dialect known as “Kurmali” is still a medium of expression among them. The tribe Kurmi were described as primitive and original tribe by the Government from time to time but not accorded status of tribes in the Constitution (Scheduled Tribes) Order, 1950 in respect of the State of West Bengal. It is, therefore, pertinent to make available all benefits and assistance to Kurmi tribals for their overall development. The Bill seeks to include the “Deswalli Majhees” and the “Kurmi” tribes in the Constitution (Scheduled Tribes) Order, 1950 in respect of the State of West Bengal.

NEW DELHI;
October 26, 1999.

BIR SINGH MAHATO

BILL NO. 90 OF 1999

A Bill to provide for special educational facilities to the children of parents living below poverty line and for matters connected therewith.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Special Educational Facilities (For Children of Parents Living Below Poverty Line) Act, 1999.

Short title, extent and commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means the Central Government or the State Government, as the case may be;

(b) “parents living below poverty line” means all such parents whose income from all sources is less than rupees one thousand and five hundred per mensem; and

(c) “prescribed” means prescribed by rules made under this Act.

Facilities to
children born
of parents
living below
poverty line.

3. The appropriate Government shall provide to every child born of parents living below poverty line the following facilities, namely:—

(a) free education from school level to the post-graduate level including higher medical, technical, legal and professional education;

(b) free uniform, books, meals and such other assistance and facilities as are required for the proper education; and

(c) gainful employment to the child after he completes his education.

Power to make
rules.

4. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

More than half of the total population of our country lives below the poverty line, that is to say, whose total family income is below one thousand and five hundred rupees per month. Their income is so meagre that they have fight for their subsistence. Having hand to mouth existence they cannot even think of getting elementary education to their children. One of the basic aims of our Constitution is promotion of universal education and establishment of a classless and creedless society. The Government at the national level as well as at the State level should make provision for free educational facilities and provide books, uniform, writing materials, transportation and hostel facilities free of cost to the children of persons living below the poverty line. It will help in eradicating illiteracy from the country.

Hence this Bill.

NEW DELHI;
November 1, 1999.

BIR SINGH MAHATO

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for free education including medical, technical, legal and professional education by the appropriate Government to children born of parents living below poverty line. It also provides for facilities such as free hostel, uniform, meals etc. to such children. The Central Government has to bear the expenditure in respect of Union territories in implementing the provisions of the Bill. The respective State Government shall bear the expenditure in respect of their State. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure to the tune of rupees one crore is likely to be incurred per annum.

A non-recurring expenditure of rupees one crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. These rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL No. 5 OF 2000

A Bill to make military training compulsory for all able-bodied persons and for matters connected therewith.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Compulsory Military Training Act, 2000.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,

Definitions.

(a) "appropriate Government" means in the case of State, the State Government and in the case of a Union territory, the Union Government; and

(b) "person" means a person between the age of fourteen and fifty years.

3. (1) The Central Government shall provide military training to all able-bodied persons for a period of not less than one year.

Compulsory military training.

(2) The Central Government shall establish such number of institutions and take such other necessary steps, as it may deem fit to give effect to the provisions of sub-section (1).

(3) Every person who successfully completes training under sub-section (1) shall be awarded a certificate to that effect by the Central Government.

4. The appropriate Government shall give preference to persons who have successfully completed their military training in services under defence, para-military police and such other establishments and organisations, as it may deem fit, for proper utilisation of talent:

Employment to those who have undergone military training.

Provided that all such persons, who, after successful completion of their military training remain unemployed, shall be given unemployment allowances at such rate, as may be determined from time to time, by appropriate Government till they are gainfully employed.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Almost all developing countries, even smaller in size, population and resources than India, have provided for compulsory military training for their youth and old. Providing compulsory military training to able-bodied citizens does not in any way run counter to the ideal of international peace and harmony, which has been the hall-mark of India's foreign policy since independence. Military training does not necessarily encourage the pugnacity of individual or the belligerence of the nation-States. On the contrary it inculcates qualities of discipline and sacrifice and fosters in each individual the spirit of brotherhood and amity. A well integrated and as well as a coordinated programme of military training would immensely beneficial to canalise the vast energies of our youth, young and would lead to their all-round development and in enhancement of the welfare of the nation. The people can defend and safe guard their houses from robbery and dacoity which are increasing day by day. Many innocent people are murdered in day light. As the extremist activities are on increase in the country, Central and State Governments have not been able to provide adequate protection to general public. Therefore, self-defence has become a must for every individual.

With this in view, the Bill seeks to provide for compulsory military training to all able-bodied citizens.

The Bill seeks to achieve the above objective.

NEW DELHI;
November 8, 1999.

VILAS MUTTEMWAR

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall provide compulsory military training to all able-bodied persons for a period of not less than one year and for the purpose shall establish such number of institutions and shall take such other necessary steps, as it may deem fit. Clause 4 provides that persons who have undergone military training and remain unemployed shall be given unemployment allowance. The Central Government will have to incur expenditure in respect of the Union territories for carrying out the provisions of the Bill. The Central Government may have to assist the State Governments for carrying out the provisions of this Bill. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees seven thousand crore per annum.

A non-recurring expenditure of about rupees three crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 10 OF 2000

A Bill to provide for welfare measures to be undertaken by the Union and State Governments for the ragpicking and vagabond street children who subsist on collecting and selling waste materials from garbage dumps and other places endangering their health and lives and for their rehabilitation through education, training, vocational education and guidance and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Ragpicking and other Vagabond Street Children (Rehabilitation and Welfare) Act, 2000.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Short title
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) “Child” means a boy or girl who is below the age of eighteen years;

(c) “prescribed” means prescribed by rules made under this Act;

(d) “ragpicking child” means a child who collects waste papers, plastic items, glass and metal wastes from garbage dumps, street and public places etc. and sells his collection for his subsistence;

(e) “vagabond street child” means a child who wanders aimlessly in the streets, does not go to school due to inability of his parents to afford for his studies.

District-wise register of ragpicking and vagabond street children.

3. (1) The appropriate Government shall maintain a district-wise register of all ragpicking and vagabond street children.

(2) The register shall be maintained in such manner and shall contain such information as may be prescribed.

Shelters for orphan ragpicker and vagabond children.

4. (1) The appropriate Government shall establish such number of shelters as it may deem necessary for boarding and lodging of the orphan and homeless ragpickers and vagabond street children free of cost.

(2) The facilities in the shelters shall be such as may be prescribed.

Financial assistance to the families of ragpicking children.

5. (1) The family of every ragpicking child which subsists on the efforts of such child shall be given financial assistance by the appropriate Government at such rate and in such manner as may be prescribed to enable such child to attend school for studies or training in vocation.

(2) The financial assistance referred to in sub-section (1) shall not be given if the ragpicking child is not sent to school by his family.

Duty of parents, etc. to send vagabond street children to schools.

6. It shall be the duty of every parent, guardian or head of the family, or manager or in-charge of the shelters established under section 4 to send every ragpicking and vagabond street child to school for getting education or vocational training as per his calibre.

Schools and technical education institutes for ragpicking and vagabond street children.

7. (1) The appropriate Government shall open sufficient number of schools and technical education institutes on the pattern of model schools and industrial training institutes, respectively, at appropriate places for imparting education and training free of cost to ragpicking and vagabond street children.

(2) The ragpicking and vagabond street children attending the school and technical education institutes referred to in sub-section (1) shall be provided with books, writing materials, clothes including uniform, mid-day meals and other relevant articles free of cost by the appropriate Government.

Establishment of Ragpicking and Vagabond Street Children Welfare Fund.

8. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established a Ragpicking and Vagabond Street Children Welfare Fund, moneys into which shall be given by the Central Government after due appropriation made by Parliament from time to time and also by the Government of the States in such proportion and in such manner as may be prescribed.

(2) The Welfare Fund referred to in sub-section (1) shall be managed by the Central Government through the Governments of the States in such manner as may be prescribed.

Overriding effect of the Act.

9. The provisions of this Act shall have effect notwithstanding anything inconsistent contained therewith in any other law for the time being in force.

10. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act not to be in
derogation of
other laws.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

STATEMENT OF OBJECTS AND REASONS

There are millions of children particularly in the urban areas of the country who subsist on ragpicking. They collect waste-papers, waste plastic material and metal scraps, etc. thrown by the households and traders in the dustbins or littered in the streets, roads, etc. and then sell their collections for few rupees to the Kabadiwallahs every day who thrive on their labour. These helpless children are paid lowly for their waste collections. Many of the ragpicking children do this job to support their poor families as they are unable to get any other job for various reasons. Many of them are forced to do this job either by the compelling circumstances or by their alcohol addict or drug addict parents/guardians. A number of ragpicking children are orphans who subsists on this profession. These ragpickers work under pathetic and unhygienic conditions. They wake up early in the morning and rush to one dustbin after another full of garbage and dangerous virus. They collect the refuse from the stinking garbage dumps and contract dangerous diseases like TB, Hepatitis, Plague, respiratory diseases and even cancer. Undeterred they carry on this job till they are eliminated from this cruel world. Many of them though talented remain illiterate and always remain hand to mouth. They do not even get two square meals and a pair of clothes to wear. They always live in abject poverty.

Similarly, there are vagabond street children who do nothing except roaming aimlessly. They belong to poor families who have no means to send them to schools. Many of the vagabonds have skill, productivity and ingenuity but they have no means to show it to the world.

It is true that in a welfare State like ours the children must enjoy their childhood. They should get nutritious diet, good education and training and good atmosphere so that they may grow as responsible citizens. Since the families of the ragpicking children or such children themselves cannot afford the luxuries of good diet, education and training, the State must come forward for the welfare of these helpless children for their proper development. The Government should establish shelters for such children and open schools and training institutes for them wherein apart from free education and training they should be provided dress, books, writing material and other things free of cost so that their future is shaped well.

Hence this Bill.

NEW DELHI;
November 8, 1999.

VILAS MUTTEMWAR

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for maintenance of district wise register of all ragpicking and vagabond street children. Clause 4 provides for the establishments of shelters for orphan ragpickers and vagabond street children. Clause 5 provides for the financial assistance to the families of ragpicking children. Clause 7 provides for the opening of schools and training institutes. Clause 8 provides for the establishment of Ragpicking and Vagabond Street Children Welfare Fund. As regards the expenditure involved in giving effect to the provisions of the Bill in the States, it shall be borne out of the Consolidated Funds of the respective States. However, in the case of Union territories, the expenditure shall be met out of the Consolidated Fund of India. The Central Government may also have to extend financial assistance to the state Governments for implementing the provisions of the Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one hundred crore is likely to be involved as a recurring expenditure per annum.

A sum of rupees one crore is also likely to be involved as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill which will relate to matters of detail only. The delegation of legislative power is, therefore, of normal character.

BILL NO. 2 OF 2000

A Bill Further to amend the Cinematograph Act, 1952.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the Cinematograph (Amendment) Act, 2000.

Short title.

37 of 1952.

2. For section 3 of the Cinematograph Act, 1952, (hereinafter to be referred to as the principle Act), the following section shall be substituted, namely:—

Substitution of
new section
for section 3.

“3. (1) For the purposes of sanctioning films for public exhibition, the Central Government shall, by notification in the Official Gazette, constitute a Board to be called the Board of Film Certification which shall consist of a Chairman, who shall be a woman, and not less than twelve and not more than twenty-five other members appointed by the Central Government:

Board of Film
Censors.

Provided that the Board shall consist of atleast two women members and two members who are experts in the field of film, arts or culture.

(2) The term of the Board shall be five years:

Provided that a minimum of one-third of the members of the Board shall not be reappointed in the Board to be reconstituted after every five years.

(3) The Chairman of the Board shall receive such salary and allowances as may be determined by the Central Government, and the other members shall receive such allowances or fees for attending the meetings of the Board as may be prescribed.

(4) The other terms and conditions of service of the members of the Board shall be such as may be prescribed.”

Substitution of
new section for
section 5B.

3. For section 5B of the principle Act, the following section shall be substituted, namely:—

Principles for
guidance in
certifying
films.

“5B. (1) A film shall not be certified for public exhibition if, in the opinion of the authority competent to grant the certificate, the film or any part of it—

- (a) is against the interests of the sovereignty and integrity of India;
- (b) is against the security of the State;
- (c) is against interests of the secular character of the country;
- (d) is against the friendly relations with the foreign State;
- (e) degrades the image of the country in comparison to other countries;
- (f) is against the religious faith of any religion or preaches communalism or shows any religious faith with contempt in any manner;
- (g) is against public order, decency or morality;
- (h) depicts excess sex or vulgarity and projects women in an indecent manner;
- (i) contains violence or incites acts of violence; and
- (j) involves defamation or contempt of court or is likely to incite the commission of any offence.

(2) Subject to the provisions contained in sub-section (1), the Central Government may issue such direction as it may think fit setting out the principles which shall guide the authority competent to grant certificates under this Act in sanctioning films for public exhibition.”

STATEMENT OF OBJECTS AND REASONS

Since the past few years, films in our country depict excess sex, vulgarity and violence and are corroding the moral values of the people and thereby creating a negative impact on the minds of the people, especially the youth. As a result, many crimes are committed. People try to perform the scenes which they witness in films.

The films are making inroads into our cultural, moral and traditional values. If this situation is allowed to persist, the whole society will be corrupted. Although there is a provision for censoring films before they are released for public exhibition, yet the scope for rejecting any film is very much limited and as a result many films escape from the scissors of the censors. Not only our own films, foreign films also add fuel to the fire.

The scope of the Censor Board should be widened very much to enable them to reject a film which in their opinion would spoil the minds of the youth. The association of women members in the Censor Board is minimal and, therefore, it is proposed to increase the strength of women members in the Censor Board so that they can prevent films which depict women in an indecent manner. Certain guidelines have been proposed in the Bill to enable the Censor Board to function effectively.

The Bill seeks to achieve the above objectives.

NEW DELHI;
November 8, 1999.

VILAS MUTTEMWAR

BILL No. 1 OF 2000

A Bill to provide for abolition of begging and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-first year of the Republic of India as follows:—

Short title and
extent.

1. (1) This Act may be called the Prevention of Begging Act, 2000.

(2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "beggar" means a person who indulges in begging;

(c) "Begging" means-

(i) soliciting alms in a public place, including railways, bus-stops, road sides and public transport, by invoking compassion; and

(ii) entering in any private premises for the purpose of soliciting or receiving alms;

(d) "receiving centre" means a centre established under section 5, where any person taken into custody on the ground of begging shall be kept till the time he is rehabilitated.

3. Begging by any person in any manner is hereby abolished.

Abolition of begging.

4. Whoever forces or encourages any person, including a child in his care, custody or charge, for begging or whoever uses any person as an exhibit for the purpose of begging, shall, in the first instance, be warned of indulging in such activities and punished with a fine of rupees five hundred if he indulges in spite of the warning given to him.

Punishment for forced begging.

5. (1) Any person found begging shall be arrested by the Police.

Arrest of persons found begging, etc.

(2) Any person so arrested shall be sent to a receiving centre, to be established in every district by the appropriate Government, wherein such person shall be provided with facilities for his rehabilitation.

6. (1) The Central Government shall constitute a Fund to be called the Beggars' Welfare Fund for the welfare of the beggars.

Beggars' Welfare Fund.

(2) The fund shall be utilised for the welfare and rehabilitation of beggars.

7. (1) The appropriate Government shall formulate such schemes, work out such plans, including plans for provision of education, and create suitable infrastructure in every district so as to enable beggars to take up suitable jobs for earning livelihood.

Formulation of schemes and plans for beggars, etc.

(2) The appropriate Government shall set up destitute homes for providing food, shelter and protection, to the old, infirm, helpless and destitute persons so as to discourage them from indulging in begging.

8. The Central Government may, notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Despite all efforts made and welfare measures taken by the Central Government and the State Governments, the practice of begging continues unabated all over the country, especially in the metropolitan cities and urban centres. There are organised gangs who exploit innocent children and force them into begging not for the sustenance of these boys and girls but for gathering alms for the gang leaders and organisers. Some people have made forcing children into begging a business. They kidnap children and force them to go for begging and collect huge amount.

As per 1971 census the number of beggars in the country was 10 lakhs and the number has considerably increased during subsequent years.

Prevention of begging has to go alongwith programmes for education, training and rehabilitation of the children, women and men found engaged in begging. Some alternative source of livelihood have to be found for the beggars.

Therefore, it is high time that a law for prevention of begging is brought forward.

Hence this Bill.

NEW DELHI;
November 30, 1999.

RAMDAS ATHAWALE

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for establishment of "receiving centres" in every district by the appropriate Government. Clause 6 provides for setting up of Beggars' Welfare Fund. Clause 7 provides for formulation of schemes and creating suitable infrastructure by appropriate Government in every district so as to enable beggars to take up suitable jobs. It further provides for setting up of destitute homes by the appropriate Government. The Central Government would have to incur expenditure from the Consolidated Fund of India for establishment of receiving centres, destitute homes, formulating schemes, creating suitable infrastructure in respect of Union territories and shall also have to contribute monies into Beggars' Welfare Fund. As far as establishment of receiving centres, destitute homes, formulation of schemes and creating suitable infrastructure in the States are concerned, the concerned State Governments will incur expenditure from their Consolidated Funds, though the Central Government may have to extend some financial assistance to State for implementing the provisions of the Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one hundred crore per annum.

A non-recurring expenditure of about rupees fifty lakhs is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 empowers the Central Government to make rules for carrying out the provisions of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 7 OF 2000

A Bill to provide for uniform education throughout the country

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Uniform Education Act, 2000

(2) it extends to the whole of India.

(3) It shall come into force at once.

Short title,
extent and
commence-
ment.

2. In this Act, unless the context otherwise requires,—

Definitions.

(i) “appropriate Government” means the Central Government or the State Government, as the case may be; and

(ii) “education” means education upto higher secondary level.

3. It shall be the duty of the appropriate Government to provide free and compulsory education to every child irrespective of his caste, colour or creed.

Free and
compulsory
education.

Establishment
of schools.

4. The appropriate Government shall establish and maintain schools in every district according to its population and need.

Uniform
system of
education in
schools.

5. There shall be uniform system of education in all schools whether owned by, or receiving aid out of the funds of the appropriate Government or owned or run by private organisations or individuals or societies or by minorities.

Free Uniform
and books etc.
to students.

6. The appropriate Government shall provide breakfast, mid-day meal, uniform and books free of cost to all students in all schools.

Scholarship to
poor students.

7. The appropriate Government shall provide rupees two hundred per month upto primary level and rupees four hundred per month upto higher secondary level as scholarship to every student the income of whose parents or guardian is less than one thousand rupees per month.

Recognition
of educational
certificates.

8. The appropriate Government shall not recognise for any purpose any educational certificate awarded by a school not following uniform pattern of primary and/or higher secondary education under the provisions of this Act.

Power to make
rules.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Article 45 of the Constitution provides that it shall be the duty of the State to provide free and compulsory education to all children until they attain fourteen years of age. Although, the Government has taken many steps to achieve this end, yet, they are not adequate. At present, we have schools run by the Government and those by private organisations and minorities. All these schools follow different patterns and as a result there is no uniformity in the education imparted in these schools.

Uniformity in the system of school education is imperative to arouse consciousness of national integration in the highly sensitive and impressionable minds of the children. The type of education imparted to the children at the school level determines their growth in the final analysis as future citizens of the country.

Moreover, uniform system of education would avoid any feelings of discrimination or denial of equal opportunities in the matter of career advancement.

Although the Government has taken many steps to provide free education, the parents are not allowing their children to study. Due to poverty they send their children to earn money and this results in increase in the child labour in the country. Therefore, it is necessary to provide them with free meals, uniforms, books and scholarships so that such parents are tempted to send their children to schools.

It is, therefore, proposed to provide for uniform and free education upto the higher secondary stage.

Hence this Bill.

NEW DELHI;
November 30, 1999.

RAMDAS ATHAWALE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for free and compulsory education. Clause 4 provides that appropriate Government shall establish and maintain schools in every district according to its population and need for the purpose of imparting education. It is not known how many schools will be required for carrying out the provisions of the Bill. Some expenditure will be involved in setting up of schools and provision of free meals, uniform, etc. and scholarships to poor students (clauses 6 and 7). The expenditure in respect of schools in Union Territories shall be met out of the Consolidated Fund of India. Expenditure in respect of schools established in State shall be met out of the respective Consolidated Funds of the States although some assistance may be extended by the Central Government.

It is estimated that an annual recurring expenditure of about rupees ten crore is likely to be involved. A non-recurring expenditure to the tune of rupees twenty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 3 OF 2000

A Bill to provide for reservation of vacancies for the members of scheduled castes and scheduled tribes in posts and services under the control of the Government of India or of a State and in all statutory authorities and autonomous bodies receiving monies from the Government of India or of a State and for providing punishment for violation of reservation policy and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title,
commence-
ment and
application.

1. (1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Reservation of Vacancies in Posts and Services) Act, 2000.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

(3) It shall apply to every establishment as defined in clause (b) of section 2.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appointing authority" in relation to a service or post in an establishment means the authority empowered to make appointment to such service or post;

(b) "establishment" means—

(i) any office of the Government of India or of a State;

(ii) any public sector undertaking or statutory authority constituted under any Central Act or a State Act for the time being in force;

(iii) a corporation in which not less than fifty-one per cent. of the paid up share capital is held by the Central Government or a State Government;

(iv) a university and its affiliated colleges, including medical and engineering colleges affiliated to such university established by a Central Act or by a State Act;

(v) primary and secondary schools and other educational institutions which are owned or aided by the Central Government or by a State Government;

(vi) any industry, trade, business or occupation owned, controlled or managed by the Central Government or a State Government;

1 of 1956

(vii) any Government company as defined in section 617 of the Companies Act, 1956 or a Corporation established by or under a Central Act or a State Act; and

(viii) all autonomous bodies and other institutions receiving monies out of the Consolidated Fund of India or Consolidated Fund of a State or grants-in-aid from the Central Government or a State Government;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "recruitment year" means the financial year during which a recruitment is actually made;

(e) "reservation" means reservation of vacancies in posts and services for Scheduled Castes and Scheduled Tribes;

(f) "Scheduled Castes" shall have the same meaning as is assigned to them in clause (24) of article 366 of the Constitution of India; and

(g) "Scheduled Tribes" shall have the same meaning as is assigned to them in clause (25) of article 366 of the Constitution of India.

3. (1) There shall be reservation of vacancies in posts and services for the members of the Scheduled Castes and the Scheduled Tribes at all levels of recruitment including appointments by promotion.

Reservation of vacancies for Scheduled Castes and Scheduled Tribes.

(2) Except as otherwise provided in this Act, the vacancies reserved for the Scheduled Castes and the Scheduled Tribes shall not be filled up by candidates not belonging to the Scheduled Castes and the Scheduled Tribes.

(3) The reservation of vacancies under sub-section (1) shall be at such percentage of the total number of vacancies as the Central Government may, after taking into consideration the percentage of population of the Scheduled Castes and the Scheduled Tribes to the total population of the country, as per the figures of the latest census; from time to time determine:

Provided that in no case such reservation shall be less than fifteen per cent. of the total number of vacancies for the members of the Scheduled Castes and seven and a half per cent. of the total number of vacancies for the members of the Scheduled Tribes at any given point of time.

(4) Vacancies reserved for the members of the Scheduled Castes and the Scheduled Tribes under sub-section (1) shall be filled in such manner as may be prescribed:

Provided that any post falling vacant in any establishment from general category shall be offered to the Scheduled Caste or the Scheduled Tribe candidate, as the case may be, to fill up the gap—of percentage of vacancies reserved under sub-section (3).

Vacancies not reserved to be open to all candidates including candidates belonging to Scheduled Castes and Scheduled Tribes.

4. (1) The recruitment to a vacancy not reserved for the members of the Scheduled Castes or the Scheduled Tribes or for any other category shall be open to all eligible candidates including the candidates belonging to the Scheduled Castes and the Scheduled Tribes.

(2) Where an unreserved vacancy is filled up by a candidate belonging to a Scheduled Caste or a Scheduled Tribe on the basis of merit, either by direct recruitment or by promotion, such vacancy shall not be adjusted against the percentage of vacancies reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be.

Exchange of vacancies between Scheduled Castes and Scheduled Tribes.

5. (1) Where the number of vacancies reserved for the members of the Scheduled Castes or the Scheduled Tribes, as the case may be, in a recruitment year cannot be filled up due to non-availability of candidates from the respective categories, such vacancies shall continue to be reserved for that category for such number of recruitment years, as may be prescribed.

(2) If, after the expiry of the number of recruitment year prescribed under sub-section (1), the candidates belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, are not available to fill up the vacancies respectively reserved for them, such vacancies shall be exchanged between the Scheduled Castes and the Scheduled Tribes with such relaxation and in such manner, as may be prescribed.

Appointing authority to be responsible for implementation of the provisions of the Act.

6. (1) It shall be the responsibility of the appointing authority to ensure that the provisions of this Act or the rules made thereunder are not violated.

(2) The Central Government may give such directions or prescribe such guidelines to the appointing authority, as it may deem fit for the purposes of sub-section (1).

Application of other laws not barred.

7. The provisions of this Act and the rules made thereunder shall be in addition to and not in derogation of any other law, for the time being in force, in respect of recruitment/promotion of the members of the Scheduled Castes and the Scheduled Tribes to the extent that such law is not inconsistent with the provisions of this Act or the rules made.

Relaxations and concessions.

8. For appointment of candidates belonging to the Scheduled Castes and the Scheduled Tribes—

(a) the upper age limit fixed for appointment to a service or a post shall be relaxed by such number of years, as may be prescribed, but such relaxation in age, in no case, be less than five years;

(b) the examination fees fixed for recruitment to a service or a post through competitive examination or otherwise shall be reduced to such extent, as may be prescribed.

(c) the requirement of percentage of marks, educational and other qualifications including experience required for direct recruitment/promotion may be relaxed at the discretion of the appointing authority if at any stage of selection the appointing

authority is of the opinion that sufficient number of Scheduled Caste and Scheduled Tribe candidates with requisite qualifications are not available to fill up the vacancies reserved for them; and

(d) the appointing authority shall pay them such travelling allowance, as may be prescribed, for the purpose of attending competitive examination and/or interview.

9. No suit, prosecution or other legal proceedings shall lie against any establishment or any other person for anything which has been done or intended to be done in pursuance of giving effect to the provision of this Act or any rule or order made thereunder.

Protections of
action taken in
good faith.

10. (1) Every establishment shall designate one or more officers of such rank, as may be prescribed, to act as liaison officer in respect of matters provided in this Act and to ensure that the provision of this Act or rules made thereunder are not violated.

Liaison officer.

(2) The Liaison Officer, shall, in particular, be responsible for—

(a) ensuring coordination and proper implementation of the provisions of this Act and the rules made or any order, instruction or direction issued by the Central Government, thereunder;

(b) ensuring timely submission of the annual report, referred to in section 11 to the Central Government;

(c) conducting annual inspection of records in such manner, as may be prescribed; and

(d) doing such other incidental work, as may be necessary, for the proper implementation of the provisions of this Act or the rules made thereunder.

11. (1) Every appointing authority shall maintain such records, as may be prescribed, and shall furnish every year, in such manner and at such time, as may be prescribed, to the Central Government an annual report on the appointments and promotions made by it during the previous recruitment year:

Submission of
Annual
Reports and
maintenance of
other records
and inspection
thereof.

Provided that the appointing authority shall maintain separate records of all appointments and promotions made during the previous recruitment year for each category of posts and services and each of such records shall specifically contain the number and percentage of persons belonging to the Scheduled Castes and the Scheduled Tribes who were appointed or promoted to fill up the vacancies against those posts and services during that recruitment year.

(2) The Central Government may authorise any officer to inspect any records or documents which are maintained in relation to appointments and promotions made in any establishment by the appointing authority.

(3) It shall be the duty of the appointing authority to make available such records or documents to—

(a) the officer authorised under sub-section (2) and furnish to him such information and render such assistance as may be necessary for him to carry out his functions under this Act; and

(b) any employee working under him on receiving a written request.

12. Whoever contravenes the provisions of this Act shall be punished with imprisonment which may extend to one year or with fine amounting to rupees ten thousand or with both.

Punishment.

13. Whoever knowingly makes a false claim that he is a member of the Scheduled Caste or, as the case may be, the Scheduled Tribe, and whoever knowingly issues a false certificate to this effect, shall be punished with imprisonment for a term which shall be not less than three years or with fine which may extend to rupees ten thousand or with both.

Punishment for
making false
claims.

Power of
Central
Government to
give directions.

14. The Central Government may, by order give such directions, as it may deem fit, from time to time, to give effect to the provisions of this Act and every establishment shall be bound by all such directions issued by the Central Government.

Removal of
difficulties.

15. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, to be published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty.

(2) Every order made under this section shall be laid as soon as may be after it is made, before each House of Parliament.

Annual Report.

16. The Central Government shall, every year, lay before each House of Parliament, a report giving full account of the working of the provisions of this Act during the preceding recruitment year:

Provided that the report shall also include details of penal action taken against the appointing authorities for violating the provisions of this Act.

Power to make
rules.

17. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the percentage of vacancies to be reserved for the members of the Scheduled Castes and the Scheduled Tribes under sub-section (3) of section 3;

(b) the manner of filling vacancies reserved for the Scheduled Castes and the Scheduled Tribes under sub-section (4) of section 3;

(c) the number of recruitment years for carrying forward reserved vacancies not filling in a particular recruitment year and the manner of interchange of vacancies between the Scheduled Castes and the Scheduled Tribes under section 5;

(d) relaxation in upper age limit;

(e) reduction in quantum of fees to be charged for admission to competitive examination/interview;

(f) the rate at which the travelling allowance, referred to in clause (d) of section 8, may be given to the Scheduled Castes and the Scheduled Tribes;

(g) rank of officer to be designated as liaison officer under section 10;

(h) the manner in which records may be maintained by the appointing authority and the manner in which and the time at which an annual report on the appointments and promotions made by the appointing authority during the previous year may be furnished under sub-section (1) of section 11;

(i) the manner of conducting inspection of records under section 11;

(j) procedure that may be followed by the appointing authority for verification of the caste status of the appointee and the procedure that may be followed by the higher authority in case an appeal is filed by the appointee against the action of appointing authority; and

(k) any other matter which may be prescribed or in respect of which rules are required to be made by the Central Government.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days

which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

18. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act to have
over riding
effect.

STATEMENT OF OBJECTS AND REASONS

Articles 38, 39 and 46 of the Constitution require the State to promote educational and economic interests of the Scheduled Castes and the Scheduled Tribes in order to render social justice to them and since employment including promotions in service is an aspect of economic interest of the Scheduled Castes and the Scheduled Tribes, it is the duty of the State to give adequate protection to the economic interests of the Scheduled Castes and the Scheduled Tribes. Moreover, it has been our national policy to make special provisions for the advancement of the Scheduled Castes and the Scheduled Tribes in matters relating to their employment or appointment, including promotions, to any office under the State. This view was also upheld by the Supreme Court in Rangachari's case in 1962 and ever since many judgements have been delivered by the Supreme Court on the above principle including the judgements in the Thomas' case and the Railway Karamachari Sangh's case.

However, in the recent Mandal case the Supreme Court took the view that reservation in confined only to initial recruitment and does not include promotion and, as such, reservation in promotion is not covered under article 16(4) of the Constitution. The decision of the Supreme Court is enforceable throughout the territory of India under article 142 of the Constitution unless a law is made by the Parliament annulling the effect of the decision of the Supreme Court.

In such circumstances it has, therefore, become necessary to amend article 16 and Ninth Schedule to the Constitution making reservation in promotion as a part of reservation scheme and such reservation of appointment and posts, which includes reservation in promotion in services and posts under the State, may not be subject to any judicial scrutiny.

However, it is all the more important that a separate Act should be made providing for ensuring reservation in appointments and posts for the Scheduled Castes and the Scheduled Tribes, including reservation for them in promotions in all the departments of the Central Government and State Governments, nationalised banks, public sector undertakings, statutory authorities, autonomous bodies, companies or corporations, societies, local authorities, universities, educational institutions affiliated to the universities or those recognised by the Central Government or receiving aid from the Central Government, etc. Moreover, penal provisions have to be provided to ensure effective implementation of the Act and to ensure that the reservation is not less than fifteen per cent. of the total number of vacancies for members of the Scheduled Castes and seven and half per cent. of the total number of vacancies for members of the Scheduled Tribes at any given point of time.

The Bill seeks to achieve the above objective.

NEW DELHI;
November 30, 1999.

RAMDAS ATHAWALE

FINANCIAL MEMORANDUM

Clause 8(d) of the Bill provides that the appointing authority shall pay to the Scheduled Caste and the Scheduled Tribe candidates such travelling allowance, as may be prescribed, for the purpose of attending competitive examination and/or interview. Clause 11 provides that every appointing authority shall maintain such records, as may be prescribed, and shall furnish every year, in such manner and such time, as may be prescribed, to the Central Government an annual report on the appointments and promotions made by it during the previous recruitment year. Clause 16 provides for the preparation and laying of an annual report on the working of the Act before each House of Parliament. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees one hundred crore from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The matters in respect of which rules may be made are matters of procedure and detail and since it is not possible to incorporate the same in the Bill, the delegation of legislative power is of a normal character.

Bill No. 1 of 2000

A Bill to provide for a scheme for eradication of unemployment from the country.

Be it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

- | | |
|---|---|
| 1. (1) This Act may be called the Eradication of Unemployment Act, 2000. | Short title,
extent and
commencement. |
| (2) It extends to the whole of India. | |
| (3) It shall come into force at once. | |
| 2. In this Act,— | Definitions. |
| (a) "Government" means the Central Government; and | |
| (b) "prescribed" means prescribed by rules made under this Act;. | |
| 3. The Government shall endeavour to provide every citizen who has attained the age of eighteen years and who is registered at the Employment Exchange with employment suitable to his age, qualification and strength. | Employment
to citizens. |
| 4. Till such time as employment is provided to a citizen under section 3, he or she shall be entitled to such unemployment allowance, as may be prescribed. | Grant of
unemployment
allowance. |

Unemployment
Insurance
Scheme.

5. An Unemployment Insurance Scheme shall be started by the Government so as to provide for a special fund for the grant of unemployment allowance under this Act.

Contribution to
Unemployment
Insurance
Scheme.

6. A citizen who has registered himself at the Employment Exchange shall be eligible to receive benefit of unemployment allowance under this Act subject to his furnishing an agreement to contribute to the Unemployment Insurance Scheme for a prescribed period immediately after securing employment at a rate as may be prescribed.

Power to make
rules.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for the following matters, namely:—

- (a) the rate of unemployment allowance referred to in section 4 and different rates may be prescribed on the basis of qualification and skills;
- (b) the necessary details of the unemployment insurance scheme;
- (c) the rate of contribution to the Unemployment Insurance Scheme under section 6;
- (d) the procedure to regulate all payments under this Act;
- (e) any other matter which is required to be, or may be, prescribed.

STATEMENT OF OBJECTS AND REASONS

The problem of unemployment has assumed menacing proportions. Even the educated citizens are rendered indigent. Lack of opportunity of employment in the country is also leading to brain drain and exodus of a large number of skilled and unskilled persons abroad. It is time that concerted efforts are made by the State to assure employment to the citizens of the country and to provide unemployment relief to those who have not been able to secure employment. It is also necessary to promote an unemployment insurance scheme for the purpose, so that the scheme may serve to finance the funds for the unemployment relief.

Hence the Bill.

NEW DELHI;
November 30, 1999.

RAMDAS ATHAWALE

FINANCIAL MEMORANDUM

Clause 4 of the Bill seeks to provide unemployment allowance to the citizens who have attained the age of eighteen years or above. This provision involves a recurring expenditure of about one hundred crore rupees per annum from the Consolidated Fund of India. The recurring expenditure is expected to reduce substantially as and when employment is provided.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Government to make rules for fixing the rate of unemployment allowance. Similarly, clause 6 empowers the Government to fix the rate of contribution to Unemployment Insurance Scheme.

Clause 7 empowers the Government to make rules for carrying out the provisions of the Bill. The matters in respect of which such rules may be made would relate to matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself.

The delegation of the legislative power is of a normal character.

BILL NO. 8 OF 2000

A Bill to amend the Cable Television Networks (Regulation) Act, 1995.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Cable Television Networks (Regulation) Amendment Act, 2000.

Amendment
of section 5.

2. In section 5 of the Cable Television Networks (Regulation) Act, 1995 (hereinafter referred to as the principal Act), the proviso shall be omitted. 7 of 1995

Amendment
of section 6.

3. In section 6 of the principal Act, the proviso shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Cable Television Networks (Regulation) Act, 1995 is not applicable to certain foreign satellite channels like Star TV, AXN, etc. which are beamed directly or through cable operators. As such these channels do not follow any programme or advertisement code as provided in the Act. These channels telecast obscene films, pictures, etc. and also show advertisements with a view to advocating tobacco and alcoholic products which corrupt the minds of youngsters. Hence it has become necessary to bring all channels including free to air foreign channels within the purview of the Act with a view to enforcing programme and advertisement code strictly.

The Bill seeks to accordingly amend sections 5 and 6 of the Act.

NEW DELHI;
December 21, 1999.

KIRIT SOMAIYA

BILL NO. 9 OF 2000

A Bill further to amend the Securities and Exchange Board of India Act, 1992.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Securities Exchange Board of India (Amendment) Act, 2000.

Amendment
of section 4

2. In section 4 of the Securities and Exchange Board of India Act, 1992, in sub-section (1), for clause (d), the following clauses shall be substituted, namely:—

“(d) one member from a recognised Stock Exchange;

(e) one member representing investors;

(f) one member representing the Industry; and

(g) two other members.”

STATEMENT OF OBJECTS AND REASONS

The Securities and Exchange Board of India was set up in 1992 to regulate the activities of capital market. One of the main objects of the Board is to protect the interests of small investors. At present, there is no representative of the small investors in the Board. It is felt that for more efficient functioning of the Board it is necessary to strengthen the composition of the Board. It is accordingly proposed to include one representative each from a recognised stock exchange, small investors and the industry as the members of the Board.

The Bill seeks to achieve the above objective.

NEW DELHI;

KIRIT SOMAIYA

December 21, 1999.

FINANCIAL MEMORANDUM

Clause 2 of the Bill makes provision for appointment of some more members. This will involve expenditure of about rupees one lakh per annum from Consolidated Fund of India as a recurring expenditure.

It will also involve a non-recurring expenditure of rupees one lakh.

BILL NO. 14 OF 2000

A Bill to provide for reservation for students belonging to the Scheduled Castes and the Scheduled Tribes for admission in all courses of study including technical courses.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Reservation in Educational Institutions) Act, 2000.

(2) It extends to the whole of India.

(3) It shall come into force at once.

(4) It shall apply to every educational institution, as defined in this Act, which is maintained by the appropriate Government or receiving grant-in-aid from the appropriate Government or recognised by the appropriate Government or University established by any Act of Parliament or a State Legislature or deemed

Short title,
extent, com-
mencement
and applica-
tion.

University, Post Graduates, Centres and affiliated educational institutions bound by any Act, rules or instructions or orders in force issued under an Act or by the appropriate Government or authority but not inconsistent with this Act.

Definitions.

2. In this Act unless the context otherwise requires,—

(a) “appropriate Government” means the Central Government or the State Government, as the case may be;

(b) “academic Year” means an academic year as defined in the relevant Acts or rules or education code or directions issued by the appropriate Government;

(c) “education” means all courses of study in all disciplines at all levels including super-speciality courses;

(d) “educational Institution” means and includes every school or college or an institution where course in any discipline is imparted or research is conducted or training in any form is given at all levels and in all disciplines;

(e) “prescribed” means prescribed by rules made under this Act;

(f) “rules” means rules or instructions or directions made under this Act or of those existing but not inconsistent with this Act and rules;

(g) “Scheduled Castes and Scheduled Tribes” shall have the same meanings assigned to them, respectively, under clause (24) and clause (25) of article 366 of the Constitution of India and notified by the President of India under articles 341 (1) or 342 (1) and as amended from time to time.

Percentage of reservation.

3. The appropriate Government shall provide for reservation of seats in all courses of study or faculties in all educational institutions for the students belonging to the Scheduled Castes and the Scheduled Tribes at such percentage as may be prescribed by the appropriate Government, from time to time, in proportion to the population of the Scheduled Castes and the Scheduled Tribes to the total population in the appropriate State or Union territory as per the latest census.

Duty to admit students belonging to SCs/STs.

4. (1) It shall be mandatory for every educational institution and in-charge thereof to admit the students belonging to the Scheduled Castes and the Scheduled Tribes in such proportion as may be prescribed under section 3.

*Explanation:—*The number of seats reserved for Scheduled Castes/Scheduled Tribes, as the case may be, shall not include admission on the basis of merit of students belonging to Scheduled Castes/Scheduled Tribes.

(2) Wherever sufficient students belonging to the Scheduled Castes or the Scheduled Tribes are not available for admission in any course to fill up seats reserved for a particular category, it shall be the duty of the admitting authority to admit available candidates from the Scheduled Castes/Scheduled Tribes, *vice versa*, as the case may be, to the unfilled seats of the particular category.

Eligibility of children of migrant labour etc. for admission.

5. In case of a child of a migrant labourer or an employee of All India Service or Central Government or an employee in a service or employment where inter-State transfers are done, belongs to a Scheduled Caste or Scheduled Tribe, as the case may be, in the native State, but does not belong to a notified Scheduled Caste or Scheduled Tribe in the migrated, transferred or allotted State, shall be admitted in an educational institution as if the child belonged to a Scheduled Caste or the Scheduled Tribe as notified in the State where the parent has been transferred or migrated.

Caste certificate and verification.

6. (1) Every student belonging to a Scheduled Caste or Scheduled Tribe seeking admission in any educational institution shall obtain caste certificate from the competent authority empowered to issue such certificate from his native State.

(2) Every student belonging to Scheduled Caste/Scheduled Tribe shall be admitted in an educational institution subject to production of the caste certificate within one month from the date of admission.

(3) On making admission, the Head of the educational institution, shall immediately transmit the original caste certificate produced together with the admission form of the student to the Director of Social Welfare or Tribal Welfare Department of the appropriate Government for enquiry and report to the educational institution of the correctness or genuineness of the social status claimed by the concerned admitted candidate.

(4) On receipt of the original caste certificate, the Director of Social Welfare or Tribal Welfare Department, himself or by an officer authorised by him in that behalf or as per the existing procedure, shall verify or cause verification conducted and send necessary report to the concerned educational institution within a period of two months.

(5) In case the report is adverse to the student, the concerned institution shall forthwith issue a show-cause notice to the student enclosing a copy of the report received from the Director of Social Welfare or Tribal Welfare Department, calling for an explanation within a specified time of not less than ten days.

(6) On receipt of the explanation, if any, within the specified time or extended time which shall not be more than five days, and if the student seeks an opportunity of personal hearing by himself, the same may be given thereon and the concerned authority shall take appropriate decision thereon within a period of one month, as per rules complying with the principles of natural justice and pass appropriate orders as the case warrants with brief reasons in support of his conclusion.

(7) The aggrieved student or guardian may file an appeal against the said order to the Secretary of the concerned Ministry of the appropriate Government under whose control the educational institution functions.

(8) The Secretary shall, after giving an opportunity of being heard in person to the aggrieved student and in case of minor by the parent or legal guardian, shall decide the appeal with brief reasons in support thereof, within two months from the date of filing of the appeal.

(9) The decision of the appellate authority shall be final and binding on the parties concerned.

(10) The order shall be communicated to the student or guardian and Director, Social or Tribal Welfare Department of the appropriate Government.

7. (1) The appropriate Government may prescribe relaxation in the upper age limit in case of students belonging to the Scheduled Castes and the Scheduled Tribes and such age limit shall not be less than five years:

Relaxation and
concessions.

Provided that if any rule in force or operation, is more favourable to the Scheduled Castes and Scheduled Tribes, that rule shall remain valid and operate unless it is amended by the rules made under this Act.

(2) Every educational institution shall exempt payment of any fee for taking admission to such extent as may be prescribed in case of students belonging to the Scheduled Castes and the Scheduled Tribes.

(3) Notwithstanding anything contained in any other law or judgement or order or decree of a court or Tribunal or Authority to the contrary, the requirement as to certain percentage or marks, with reference to the qualifying examination or entrance examination, or both, if combined, for admission, in the appropriate course of study etc., shall not be applicable to students belonging to Scheduled Caste/Scheduled Tribe.

Explanation: Relaxation of marks in favour of students/candidates belonging to Scheduled Castes and Scheduled Tribes shall be only for admission into the course of study or faculty and there shall be no relaxation of marks for qualifying examination for degree course.

(4) Every student belonging to a Scheduled Caste or a Scheduled Tribe shall be paid travelling allowance for attending interviews for admission in any course.

Protection of
the action
taken in good
faith.

8. No suit prosecution or other legal proceedings shall lie against any educational institution or Head of the institution, for anything done in good faith in implementation of the provisions of this Act or rules made thereunder or in operation.

Liaison Officer.

9. Every Director of School Education (Secondary Education/Intermediate Board/Higher Education etc.) by whatever name be called or an officer of the appropriate Government who has ultimate supervisory jurisdiction over the concerned educational institution shall nominate such number of officer or officers not below the rank of District/Deputy Education Officer to ensure proper implementation of this Act, who shall, in particular, be responsible for—

(i) proper and full implementation of this Act and rules made thereunder or existing order, instructions or directions issued by the appropriate Government;

(ii) making the annual inspection of the records of the educational institutions in such a manner as may be prescribed or as is in vogue;

(iii) to do such other incidental work as may be necessary for effective implementation of this Act or rules made under this Act or in force not inconsistent with this Act or the rules made thereunder;

(iv) scrutinising annual reports received from each educational institution and submit recommendations thereon to the appropriate Government.

Duty of the
Head of the
educational
institution.

10. (1) Every educational institution shall maintain such records as may be prescribed and shall furnish in every academic year to the appropriate Government in such manner and within such time as may be prescribed.

(2) Every educational institution shall submit an annual report on the admission of the students/candidates belonging to the Scheduled Castes and the Scheduled Tribes made in the educational institution or under its control to the concerned District educational officer.

(3) It shall be the duty of the Head/Incharge of the educational institution to make available such records or documents in particular of false claim of caste status and action taken thereon and the result thereof, shortfall of reserved seats for inspection by the liaison officer or the District Education Officer and furnish such information or arrange such assistance as may be necessary for him to carry out his functions under this Act.

Report.

11. (1) The appropriate Government shall submit periodically, to the Central Government, and to the Legislature of the State, every year the consolidated report of the students admitted in higher education, false claims of social status detected and the result of the action taken;

(2) The report shall also contain the number of unfilled seats and those filled with general category candidates, with reasons therefor;

(3) The report shall be caused to be laid on the Table of both the Houses of Parliament/Legislature of the State by the appropriate Government.

12. Whoever responsible for implementation of any provision of this Act or rules made under this Act or in vogue, has been found contravened or failed to implement the same or rules made by the appropriate Government under this Act or are in operation shall be punished with imprisonment which may extend upto six months and with fine of not less than rupees three thousand or with both:

Penalty for contravention of provisions of the Act.

Provided that nothing in this section shall render any person liable to punishment, if he proves that he had made every *bona fide* endeavour or exercised utmost care, attention and diligence to implement the provision of the Act and rules made under the Act or are in force.

13. (1) Whosoever knowingly makes a false claim that he is a member of a Scheduled Caste or a Scheduled Tribe, as the case may be, and whosoever charged with the responsibility of issuing a caste certificate, knowingly issues a false caste certificate or knowingly attests an affidavit and subsequently it is proved that the person does not belong to a Scheduled Caste or a Scheduled Tribe, shall be punished with imprisonment of not less than one year and fine which may extend upto rupees ten thousand.

Penalty for false claims or issue of false social certificate.

(2) Whenever any question arises whether the caste certificate is correct and genuine the burden of proof that the contents of the affidavit/caste certificate is not false to his knowledge, shall lie on the accused/certificate issuing authority.

(3) The conviction under sub-section (2) of this section shall disqualify the person for future admission in any other educational institution or appointment in any establishment under the appropriate Government with status as Scheduled Castes/Scheduled Tribe and the accused shall not be eligible to contest an election to the House of the People or Legislative Assembly of a State and the provision of the Representation of the People Act, 1951 shall be deemed to have been amended accordingly.

43 of 1951

14. The notification issued by the President of India under Article 341 (1) or 342 (1) of the Constitution of India or as amended by Scheduled Castes and Scheduled Tribes orders (Amendment) Act, 1976 of the Social Status of the caste or sub-caste/tribe shall be conclusive proof of the caste/sub-caste/tribe/sub-tribe.

108 of 1976

Proof of castes.

15. (1) No prosecution for an offence under this Act shall be maintained against an officer except by, or with sanction of, the appropriate Government.

Cognizance of the offence by courts.

(2) The appropriate Government shall consult the National Commission for Scheduled Castes and Scheduled Tribes before grant of sanction under section 197 of Code of Criminal Procedure, 1973 and the advice tendered by it shall be binding on the Government.

2 of 1974

(3) No court shall take cognizance of an offence punishable under this Act save on a complaint by the aggrieved person or on a report by a competent Police Officer or except as provided under sub-section (1).

(4) No Court, inferior to that of a Metropolitan or a judicial Magistrate of the First Class, shall try an offence punishable under this Act.

(5) An offence under the Act shall be non-bailable.

16. Every educational institution shall be bound by the Act and rules made under this Act or existing rules, not contrary to or inconsistent with the provisions of this Act or as the Central Government may, by general or special order, in writing from time to time, to give effect to the provisions of this Act.

Power of Central Government to give directions.

17. All rules made by the Government of India or the concerned State Government or the Union Territory or Local body regulating the implementation of the reservation of seats for admission in the educational institutions under its

Effect and extent of the operation of existing rules.

control to safeguard the interests of the Scheduled Castes and the Scheduled Tribes, before the commencement of this act and which are not inconsistent with the provisions of this Act or rules made thereunder shall be in force.

Act to have
over-riding
effect.

18. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law, order, judgement or decree of any court, tribunal or authority for the time being in force or any instrument having effect by virtue of any law.

Removal of
difficulties.

19. (1) If any difficulty arises in giving effect to the provisions of this Act, the central Government may, by order to be published in the official Gazette, make such provisions for removing any difficulty.

(2) Every instruction or direction or order made under sub-section (1) shall, soon after it is made, be laid before each House of Parliament.

Annual
report to be
laid in
Parliament.

20. The Central Government shall lay a report every year giving full detail of the implementation of the Act during the preceding year before each House of the Parliament.

Power to make
rules.

21. (1) The Central Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, such rules may provide for all or any of the following matters, namely,—

(a) the percentage of seats to be reserved for admission in educational institutions for the Scheduled Castes and the Scheduled Tribes consistent with the percentage of population in the latest census;

(b) guidelines for identifying educational institutions which are not already covered under section 2(d) for inclusion therein;

(c) relaxation of upper age limit or percentage of qualifying marks for admission into educational institutions/courses of study or faculty wherever reservation for admission is made;

(d) exemption from payment of application fee or relaxation thereof;

(e) authority to determine the travelling allowance payable, if any, for attending the interview for admission in the educational institutions, to the candidates belonging to the Scheduled Castes and the Scheduled Tribes;

(f) rank of the officer to be nominated as a liaison officer or inspection officer;

(g) forms prescribed for maintaining the records and documents relating to the implementation of the Act;

(h) the authority to sanction prosecution against the officer or officers who have contravened the provisions of the Act;

(i) the procedure for inquiry by the educational institutions or appellate authority against false claim of social status by any of the candidate.

(j) any other matter which is required to be or may be prescribed;

(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in the rules or both Houses agree that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under this Act or rules made thereunder.

SCHEDULE

AFFIDAVIT

I _____ son/daughter of _____
 _____ of Village/Town within the jurisdiction of _____
 — Police Station in _____ Taluk/Mandal _____
 _____ in the District/Division _____ of the State/
 Union Territory _____ belong to _____
 _____ Community/Caste/Tribe which is recognised in item No. _____
 — as the Scheduled Caste/Scheduled Tribe under the Constitution (Scheduled
 Caste/Scheduled Tribe) Order, 1950 as amended from time to time by the
 Scheduled Caste/Scheduled Tribe List Modification Order, 1956, the Bombay
 Reorganisation Act, 1960, the Punjab Reorganisation Act, 1966, the State of
 Himachal Pradesh Act, 1970 the North-Eastern Areas (Reorganisation) Act, 1971
 and the Scheduled Caste/Scheduled Tribe Order Amendment Act, 1976. I _____
 _____, son/daughter of _____ further state that myself and my parents
 ordinarily/normally reside in the said Village/Town and within the jurisdiction
 of _____ Police Station in _____ Taluk/Mandal _____ in
 the District/Division _____ of the _____ State/Union Territory. I
 further solemnly verify and state that the facts stated above are true and correct to
 the best of my knowledge and belief and no part of the statement is incorrect or
 false.

signature

Attested by Gazetted Officer

Note: In case the candidate is son/daughter of a migrant labourer/transferee, it
 should further be stated in the affidavit the date of migration/transfer and the
 duration of stay in the migrated/transferred State in which the Caste/Tribe was
 not recognised as a Scheduled Caste/Scheduled Tribe.

The following are eligible to attest the affidavit:

(1) District Magistrate/Additional District Magistrate/Collector, Deputy
 Commissioner/Additional Deputy Commissioner/Deputy Collector/First Class
 Stipendary Magistrate/Sub Divisional Magistrate/Taluk Magistrate/Executive
 Magistrate/Extra Assistant Commissioner.

(2) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/
 Presidency Magistrate.

(3) Revenue Officer not below the rank of Tehsildar and

(4) Sub-Divisional Officer/Mandal, Revenue/Development Officer of the area
 where the candidate and/or his family normally resides.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India assures equality of opportunity and of status, socio-economic justice to all the citizens of the country.

Due to practice of untouchability on the Scheduled Castes and people living in the inaccessible scheduled areas, they have been denied education and opportunity for higher education.

Article 46 of the Constitution imposes a duty on the State to promote with special care of the educational interest, in particular of the Scheduled Castes and the Scheduled Tribes and shall protect them from social injustice.

Article 38 imposes duty on the State that it shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice social, economic and political shall inform all the institutions of national life and to endeavour to eliminate inequalities in status, facilities and opportunities among individuals as well as groups of people of the country.

Article 51A(j) imposes fundamental duty on every citizen to strive towards excellence in all spheres of individual and collective activity so that the nation consistently rises to higher levels of endeavour and achievement. For this purpose, special provision for the social and educational advancement of the Scheduled Castes and Scheduled Tribes, has been made.

It has been the policy of the Government of India and the State Governments to provide, in implementation of the aforesaid Constitutional mandates, reservation in admission in all educational institutions in all the courses of study, faculties and disciplines to the Scheduled Castes and the Scheduled Tribes not only in humanities but in engineering, technical, medical, post-graduation, M.Phil., Ph.D., super-specialities and technical courses of study so that the every Scheduled Caste and the Scheduled Tribe educated youth have opportunity to improve intellectual excellence and secure equality of status and dignity in the society.

In *Indira Sawhney case*, the Supreme Court opined that reservation in technical, super-specialities and other advanced and specialised courses of study shall not be made for the Scheduled Castes and Scheduled Tribes.

In another instance in *Dr. Preeti Srivastava's case*, the Supreme Court held that reservation in super-specialities in medical courses of study is not in the national interest and cannot be made and directed the Medical Council of India to consider whether reservation for admission in post-graduation course of study can be provided to the Scheduled Castes and the Scheduled Tribes.

The five Judges Bench of the Supreme Court in *post-graduation centre in Chandigarh case*, held that clubbing of the single post in post-graduation or in super-specialities is illegal.

It also held that relaxation of marks with disparity of ten marks between general and reserved candidates for admission of Scheduled Castes and Scheduled Tribes to the extent of reserved seats as illegal.

The aforesaid judgements defeat the very object of the reservation policy, purpose and constitutional animation and deny opportunity to the Scheduled Castes and Scheduled Tribes of education and deprive them to strive towards intellectual excellence in all spheres of their educational activities and to improve their cultural advancement.

With a view to effectively implementing the policy of reservation to the Scheduled Castes and the Scheduled Tribes in admission to the seats at the prescribed percentage in all courses of study and in all faculties, disciplines, professional courses etc. and to relieve the hardship to the Scheduled Castes and the Scheduled Tribes from the afore-mentioned Judgements, it is proposed to bring a law.

Hence this Bill.

NEW DELHI;
23 December, 1999.

PRAVIN RASHTRAPAL

FINANCIAL MEMORANDUM

No additional/fresh recurring or non-recurring expenditure is likely to involve from the Consolidated Fund of India since the existing concerned Departments and Ministries are already implementing the scheme of reservation in education.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of the legislative power is of a normal character.